IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN

&

THE HONOURABLE MRS. JUSTICE K.HEMA

TUESDAY, THE 25TH JUNE 2007 / 5TH ASHADA 1929

WP(C).No. 14785 of 2007(I)

PETITIONER:

MEETHAL PAKKAN ABDUL KHADER,
S/O.ALIYAMMA,AGED ABOUT 57 YEARS,
RAMANTHALI AMSOM,KUNNARU DESOM,
KARANTHADU P.O.,KANNUR DISTRICT.

BY ADV. SRI.V.RAJAGOPAL

RESPONDENTS:

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1. THAZHATHU PARACK ISMAIL,
S/O.MOOSSAN,AGED 32 YEARS,
RAMANTHALI AMSOM,ETTIKKULAM DESOM,
P.O.,ETTIKKULAM,KANNUR DISTRICT.

2. THAZHATHU PARACK ASHRAF,
S/O.MOOSSAN,AGED 30 YEARS,
RAMATHALI AMSOM,ETTIKKULAM DESOM,
P.O.,ETTIKKULAM,KANNUR DISTRICT.

3. THAZHATHU PARACK BASHEER,
S/O.MOOSSAN,AGED 24 YEARS,
RAMANTHALI AMSOM,ETTIKKULAM DESOM,
P.O.,ETTIKKULAM,KANNUR DISTRICT.

4. THAZHATHU PARACK SALAM,
S/O.MOOSSAN,AGED 22 YEARS,
RAMANTHALI AMSOM,ETTIKKULAM DESOM,
P.O.,ETTIKKULAM,KANNUR DISTRICT.

5. SUPERINTENDENT OF POLICE,
KANNUR.

6. CIRCLE INSPECTOR OF POLICE,
PAYYANNUR.

7. STATION HOUSE OFFICER,
PAYYANNUR POLICE STATION.

BY ADV. SRI.P.R.SREEJITH

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 25/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

EXHIBIT P1: COPY OF ASSIGNMENT DEED NO.2270/98 DATED 9.9.1998.

EXHIBIT P2: COPY OF CERTIFICATE OF PURCHASE ISSUED BY THE PAYYANNUR NO.II LAND TRIBUNAL DATED 23.7.2004.

EXHIBIT P3: COPY OF BUILDING PERMIT ISSUED BY THE RAMANTHALI GRAMA PANCHAYAT DATED 22.1.2007.

EXHIBIT P4: COPY OF PETITION DATED 26.4.2007 SUBMITTED BY PETITIONER BEFORE THE SUB-INSPECTOR OF POLICE, PAYYANNUR POLICE STATION.

EXHIBIT P5: COPY OF PETITION DATED 5.5.2007 SUBMITTED BY PETITIONER BEFORE THE SUPERINTENDENT OF POLICE, KANNUR.

EXHIBIT P6: COPY OF PETITION DATED 5.5.2007 SUBMITTED BY PETITIONER BEFORE THE CIRCLE INSPECTOR OF POLICE, PAYYANNUR.

EXHIBIT P7: COPY OF DECREE IN OS.110/00 ON THE FILE OF THE MUNSIFF, PAYYANNUR DT. 24TH NOVEMBER, 2004.

EXHIBIT P8: COPY OF AFFIDAVIT AND PETITION FILED BY THE PETITIONER FOR FINAL DECREE DATED 19.7.06.

/TRUE COPY/

PA TO JUDGE

P.R.RAMAN & K.HEMA, JJ.

W.P.(C).NO. 14785 OF 2007

Dated this the 25th day of June, 2007

JUDGMENT

Raman, J.

Petitioner is stated to be the brother of one Meethal Pakkal Said, who is not in India. On behalf of such Said, the petitioner is managing his properties. Mr.Said had obtained a plot of about 17 cents in R.S.No.21/4A of Ettikkulam Desom. The said property is stated to be in exclusive possession and enjoyment of the petitioner and the petitioner started construction of a residential building in the said property. In the adjacent plot petitioner's wife started arrangements for construction of a building. It is stated that respondents 1 to 4, who are close relatives of the petitioner and his brother Said, are causing physical obstruction to the construction. Notice to respondents 2 and 3 could not be served, since they are out of India and as such there cannot be any physical obstruction by respondents 2 and 3. Therefore, as against respondents 2 and 3 the relief is refused. As against respondents 1 and 4, it is submitted that no obstruction is caused by them. The same is recorded.

2. The learned Government Pleader appeared on behalf of the State however submitted that a civil dispute is pending between Kunjamina and the petitioner. Though Kunjamina was impleaded as additional respondent and notice was served through special messenger, she has not entered appearance so far. However, there is no allegation in this Writ Petition that Kunjamina is causing any obstruction. In such circumstances, we find that in case there is any threat from respondents 1 and 4, it is open to the petitioner to approach the police, whereupon the police shall render adequate protection to the petitioner. However, in case there is any civil dispute, the parties shall approach the civil court.

The Writ Petition is disposed of as above.

P.R.RAMAN, JUDGE

K.HEMA, JUDGE

vgs.